

STATE OF HAWAII

HAWAII LABOR RELATIONS BOARD

In the Matter of

DIRECTOR, DEPARTMENT OF LABOR  
AND INDUSTRIAL RELATIONS,

Complainant,

v.

SAFEWAY, INC.,

Respondent.

CASE NO. OSH 2006-21

ORDER NO. 214

PRETRIAL ORDER

PRETRIAL ORDER

Pursuant to the initial conference in this matter conducted by conference call by the Hawaii Labor Relations Board ("Board") on October 13, 2006, and attended by Robyn M. Kuwabe, Deputy Attorney General, for Complainant and Damon L. Vickers, Esq., by telephone for Respondent, IT IS HEREBY ORDERED THAT:

1. The issues to be determined at trial are:
  - (a) As to Citation 1, Item 1 of the Citation and Notification of Penalty, issued on August 14, 2006 ("Citation"), whether Respondent violated Hawaii Administrative Rules ("HAR") § 12-202-1(e)(1) as alleged in the Citation. If so, whether the characterization of the violation as "Serious" and the penalty of \$1,500.00, are appropriate, and if not, what is the appropriate characterization and penalty;
  - (b) As to Citation 1, Item 2a of the Citation, whether Respondent violated 29 CFR 1910.132(d)(1) as alleged in the Citation. If so, whether the characterization of the violation as "Serious" and the penalty of \$1,500.00 are appropriate, and if not, what is the appropriate characterization and penalty;
  - (c) As to Citation 1, Item 2b of the Citation, whether Respondent violated 29 CFR 1910.132(d)(2) as alleged in the Citation. If so, whether the characterization of the violation as "Serious" is appropriate, and if not, what is the appropriate characterization;

- (d) As to Citation 1, Item 3a of the Citation, whether Respondent violated 29 CFR 1910.1200(g)(8) as alleged in the Citation. If so, whether the characterization of the violation as "Serious" and the penalty of \$1,500.00 are appropriate, and if not, what is the appropriate characterization and penalty; and
- (e) As to Citation 1, Item 3b of the Citation, whether Respondent violated 29 CFR 1910.1200(h) as alleged in the Citation. If so, whether the characterization of the violation as "Serious" is appropriate, and if not, what is the appropriate characterization of the violation.

2. Discovery and other deadlines are:

Identification of any affirmative defenses November 13, 2006

Identification of unnamed and live witnesses; exchange of expert reports, if any December 18, 2006

Discovery cutoff January 19, 2007

3. The trial is scheduled in this matter on February 20, 2007 at 9:30 a.m. in the Board's hearing room, Room 434, 830 Punchbowl Street, Honolulu, Hawaii.
4. Hereafter, this Pretrial Order shall control the course of proceedings and may not be amended except by consent of the parties and the Board, or by order of the Board.

DATED: Honolulu, Hawaii, October 23, 2006.

HAWAII LABOR RELATIONS BOARD

  
BRIAN K. NAKAMURA, Chair

  
EMORY J. SPRINGER, Member

  
SARAH R. HIRAKAMI, Member

DIRECTOR, DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS v. SAFEWAY,  
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NOTICE TO EMPLOYER

You are required to post a copy of this Order at or near where citations under the Hawaii Occupational Safety and Health Law are posted at least five working days prior to the trial date. Further, you are required to furnish a copy of this Order to a duly recognized representative of the employees, if any, at least five working days prior to the trial date.

Copies sent to:

Robyn M. Kuwabe, Deputy Attorney General  
Damon L. Vickers, Esq.